

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

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SANTA BARBARA

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CITY OF SANTA BARBARA  
COM DEV ADMIN

March 20, 2007

Marty Bloom, Mayor  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, CA 93102

**RE: City of Santa Barbara Local Coastal Program Amendment 1-06 (Discretionary Process Changes)**

Dear Mayor Bloom:

On March 15, 2007, the Coastal Commission approved City of Santa Barbara LCP Amendment MAJ-1-06 with suggested modifications. The City's final proposed LCP Amendment and the Commission's resolution of certification is contained in the staff report dated March 2, 2007. The five suggested modifications, as approved by the Commission, are attached on pages 3 - 12 of this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification of a LCP Amendment, the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above the Commission's certification with suggested modifications *shall expire six months* from the date of the Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development required pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.

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*Local Coastal Program Amendment 1-06*  
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- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action to certify the Local Coastal Program Amendment, the Commission shall review the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.
- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

Should you have any questions regarding this matter, please contact Melissa Hetrick in our Ventura office. The Commission and staff greatly appreciate the City's cooperation and assistance in this matter.

Authorized on behalf of the California Coastal Commission by:

Peter Douglas  
Executive Director

  
By: Gary Timm  
District Manager

cc: Melissa Hetrick, CCC  
Beatriz Ramirez, City of Santa Barbara  
Jan Hubbell, City of Santa Barbara

## **SUGGESTED MODIFICATIONS:**

On March 15, 2007, the Coastal Commission adopted the following suggested modifications to City of Santa Barbara Local Coastal Program Amendment 1-06. The proposed amended language to the certified LCP Implementation Plan is shown in straight type. Language recommended by Commission staff to be deleted is shown in **strikeout**. Language proposed by Commission staff to be inserted is shown **underlined**.

### **1. EXCLUSIONS AND EXEMPTIONS**

Section 28.44.070 of the City's Coastal Zone Ordinance amendment shall be modified as follows:

#### **28.44.070 Exclusions and Exemptions.**

The following categories of development, through Subsection C, are categorically excluded from the coastal development permit requirements of this Chapter 28.44 pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

- A. TIME-SHARE CONVERSION EXCLUSION. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.
- B. VESTED RIGHTS EXCLUSION. Any development which, on the effective date of this subsection, that has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval be made in any such development without prior City approval having been obtained by the developer.
- C. SINGLE FAMILY RESIDENCE EXCLUSIONS.
  - 1. Construction of one (1) single family residence on an existing vacant parcel in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

2. Demolition and reconstruction of an existing single-family residence in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion specified in this paragraph, if an application for demolition and reconstruction of an existing single-family residence is submitted for a lot that either: (1) contains a City Landmark or Structure of Merit, (2) contains or is within 100 feet of archeological or paleontological resources, or ~~(2)~~ (3) contains or is within 100 feet of immediately adjacent to an environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped, then the application shall require a coastal development permit.

The following categories of development, through the end of this Section 28.44.070, are exempt from the coastal development permit requirements of this Chapter 28.44 pursuant to Section 30610 of the California Coastal Act and Sections 13250-13253 of Title 14 of the California Administrative Code:

D. SINGLE FAMILY RESIDENCE EXEMPTION

Improvements to existing single-family residences; provided, however, that those improvements which involve a risk of adverse environmental effect ~~or adversely affect public access or result in a change of the intensity of use~~ shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

- E. OTHER CONSTRUCTION EXEMPTION. Improvements to any structure other than a single-family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a coastal development permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

- F. MAINTENANCE OF NAVIGATION CHANNEL EXEMPTION. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

- G. REPAIR OR MAINTENANCE EXEMPTION. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a coastal development permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.

- H. UTILITY CONNECTIONS EXEMPTION. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter; provided that the Community Development Director may,

where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

I. REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:

1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J. TEMPORARY EVENT EXEMPTION.

1. Definitions. For the purposes of this Subsection J, the following words and phrases shall be construed as set forth below:

- a. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.
- b. Limited Duration. A period of time that does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis.
- c. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.
- d. Temporary Event. An activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.
- e. Coastal Resources. Include but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities,



marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

- f. Sandy Beach Area. Includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.
2. General Rule. Except as provided in Paragraph 4 below, Every temporary event is excluded from the coastal development permit requirements under this Chapter 28.44, unless the temporary event meets all of the following criteria:
- a. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,
  - b. The event occupies all or a portion of a sandy beach area; and,
  - c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).
3. Other Exclusions. The Community Development Director may also exclude a temporary event that satisfies all of the criteria specified in Paragraph 2 above, if:
- (1) The fee is for preferred seating only and 75% of the provided seating capacity is available free of charge for general public use; or,
  - (2) The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,
  - (3) The event is less than one day in duration; or,
  - (4) The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.
4. Special Circumstances. The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a coastal development permit, even if the criteria specified in Paragraph 2 above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:

- a. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;
- b. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Paragraph 1 above;
- c. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;
- d. The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

## **2. EMERGENCY PERMITS**

Section 28.44.100 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

### **28.44.100 ~~Administrative~~ Permit for Emergency Work.**

The Community Development Director may issue an emergency coastal development permit without compliance with the procedures for the issuance of a coastal development permit specified in this Chapter 28.44 in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek an ~~administrative~~ permit for emergency work pursuant to Section 30624 of the California Public Resources Code or ~~and~~ this Section 28.44.100, the following procedures shall apply:

- A. APPLICATION. Applications for ~~administrative~~ permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:
1. The nature of the emergency;
  2. The cause of the emergency, insofar as this can be established;
  3. The location of the emergency;
  4. The remedial, protective, or preventive work required to deal with the emergency;
  5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;

6. The identity of other public agencies alerted to the emergency;
7. Access routes to the emergency; and,
8. Any other information deemed necessary by the Community Development Director.

B. VERIFICATION OF EMERGENCY. The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

C. COORDINATION AND PUBLIC NOTICE. Prior to issuance of an emergency coastal development permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action required by Section 30624 of the Public Resources Code Section 13329.3 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

D. ISSUANCE. The Community Development Director may grant an administrative permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for administrative permits or for ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
2. Public comment on the proposed emergency action has been reviewed if time allows;
3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;
4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation;
5. The Community Development Director shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a coastal development permit application for this type of work must be reviewed by the California Coastal Commission pursuant to provisions of Public Resources Code Section 30519(b) and 30600(d).

E. FORMAT OF PERMIT. The emergency permit shall be a written document that includes the following information:

1. The date of issuance;
2. An expiration date;



3. The scope of work to be performed;
4. Terms and conditions of the permit. The emergency permit may contain conditions for removal of development or structures if they are not authorized in a regular coastal development permit, or the emergency permit may require that a subsequent permit must be obtained to authorize the removal;
5. A provision stating that within 90 days of issuance of the emergency permit, a regular coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the original emergency permit, to remove such structures, or some other alternative;
6. A provision stating that any development or structures constructed pursuant to an emergency permit shall be considered temporary until authorized by a follow-up regular coastal development permit and that issuance of an emergency coastal development permit shall not constitute an entitlement to the erection of permanent development or structures;
7. A provision that states that the development authorized in the emergency permit must be removed unless a complete application for a regular coastal development permit is filed within 90 days of approval of the emergency permit. If a regular coastal development permit authorizing permanent retention of the development is denied, then the the development that was authorized in the emergency permit, or the denied portion of the development, must be removed.

E.F. NOTICE TO THE PLANNING COMMISSION.

1. The Community Development Director shall report in writing to the Planning Commission at each meeting the emergency permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time that application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Division Office of the Coastal Commission.
2. All emergency permits issued after completion of the agenda for the meeting shall be briefly described by the Community Development Director at the meeting and the written report required by Paragraph 1 above shall be distributed prior to the next succeeding meeting.
3. ~~Any administrative permit for emergency work issued by the Community Development Director pursuant to the provisions of this Section 28.44.100 shall be scheduled on the agenda of the Planning Commission at its first scheduled meeting after the permit has been issued. If, at that meeting, at least one third of the members of the Planning Commission present so request, the permit issued by the Community Development Director shall not go into effect and an application for a coastal development permit shall be processed by the City pursuant to Section 30600.5 of the California Public~~

~~Resources Code and this Chapter.~~

3. The report of the Community Development Director shall be informational only; the decision to issue the emergency permit is solely at the discretion of the Community Development Director.

### 3. SECONDARY DWELLING UNITS

Subsection C of Section 28.44.110 and Section 28.44.120 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

#### 28.44.110 Authority to Review.

- C. SECONDARY DWELLING UNITS. When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice having been given pursuant to Section 28.44.130. The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application. The decision of the Staff Hearing Officer concerning an application for a coastal development permit pursuant to this subsection C shall constitute the final action of the City. In the appealable area, decisions of the Staff Hearing Officer made pursuant to this subsection C may be appealed to the Coastal Commission in accordance with Section 28.44.200. Actions on applications to construct residential second units shall be consistent with the provisions of the applicable zoning district and the policies and development standards of the City of Santa Barbara's certified Local Coastal Program and Chapter 3 of the California Coastal Act. Review of a coastal development permit application for a residential second unit as an addition to an existing single family development shall conform with all procedures and development standards of this Chapter, aside from the requirements to conduct public hearing and local government appeals as described in Sections 28.44.120, 28.44.140, and 28.44.160.

#### 28.44.120 Public Hearing.

At least one public hearing shall be held on each application requiring a coastal development permit, with the exception of applications that only include the addition of a secondary dwelling unit to an existing single family residence pursuant Section 28.44.110(C). The Planning Commission or the Staff Hearing Officer, as designated in Section 28.44.110, shall hold the public hearing regarding the coastal development permit concurrently with any other required public hearing or hearings before the reviewing body for any other applications regarding the proposed development.

#### 4. CONFLICT WITH OTHER PROVISIONS

Section 28.44.030 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

##### 28.44.030 Compliance.

Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Chapter 28.44. If there is a conflict between a provision of the City of Santa Barbara Local Coastal Program, including Land Use Plan and Coastal Zoning Ordinance, and a provision of the General Plan, or any other City-adopted plan, resolution, or ordinance not included in the City of Santa Barbara Local Coastal Program, and it is not possible for the proposed development to comply with both the Local Coastal Program and such other plan, resolution or ordinance, the Local Coastal Program shall take precedence and the development shall not be approved unless it complies with the Local Coastal Program provision.

#### 5. DEFINITIONS

Paragraph C. in Section 38.44.040 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

##### C. APPEALABLE DEVELOPMENT.

1. Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
2. Developments approved by the City not included within Paragraph 1 above located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.
- ~~3. Developments approved by the City not included within Paragraphs 1 or 2 above that are located in a sensitive coastal resource area.~~
4. Any development which constitutes a major public works project or a major energy facility.

The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise

location of the boundary of any appealable area, the matter should be referred to the City of Santa Barbara and/or the Executive Director of the California Coastal Commission for clarification and information. The Post-LCP Certification Permit and Appeal Jurisdiction Map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

Paragraph O. in Section 28.44.040 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

O. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.

1. "Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase every year following the baseline of one hundred thousand dollars set in 1983 in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.
2. Notwithstanding the criteria in Paragraph 1 above, "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.